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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,793	09/26/2001	Kevin J. Kollar	CV-0291US	9122

9561 7590 09/11/2003

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EXAMINER

MAYNARD, JENNIFER J

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 09/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application N

09/963,793

Applicant(s)

KOLLAR ET AL.

Examiner

Jennifer J Maynard

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6 & 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to because Figures 3A and 3B, Drawing Sheet 4, contain figure labels for Figures 3A-1 through 3A-4 and Figures 3B-1 through 3B-4, respectively, and then subsequently Figures 3B-1 through 3B-4 and 3A-1 through 3A-4 are submitted as Drawing Sheets 5-12. Applicant is directed to remove Figure notations from the quadrants of Figures 3A and 3B to avoid confusion. Additionally, Applicant must amend the Brief Descriptions of the Drawings on Page 5 of Applicant's specification, to include mention of Figures 3B-1 through 3B-4 and Figures 3A-1 through 3A-4.

Additionally, the drawings are objected to because the Brief Description of the Drawings includes reference to a Figure 7C, however no Figure 7C is submitted in the Drawing Sheets and no mention of Figure 7C is made in the Detailed Description of the Preferred Embodiments on Pages 7-124 of Applicant's specification.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: The Brief Description of the Drawings fails to include Figures 3B-1 through 3B-4 which are depicted in Drawing Sheets 5-8 and Figures 3A-1 through 3A-4 which are depicted in Drawing Sheets 9-12, and Figure. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kamen et al.

(US 5,628,908 A).

Kamen et al. discloses a disposable cartridge for use in a peritoneal dialysis system having a circuit for receiving fluids from a patient and returning fluids to the patient, a circuit for delivering a solution to the patient, and a suction circuit for withdrawing fluids from the patient or surgical site, the system having a control unit (16) for controlling the flow of fluids in one or more of the circuits, the disposable cartridge comprising: a housing (24) defining a plurality of internal passageways (F1 through F9), a first internal passageway (F4, F5) being configured for connection to the patient receiving/returning circuit, a second internal passageway (F3) configured for connection to the solution delivery circuit and a third internal passageway (F2) being configured for connection to a suction circuit, (Note: the Examiner has interpreted any passageway subjected to negative pressure as being configured for connection to a suction circuit.). See Column 7, lines 5-6 and lines 45-60; Column 15, lines 28-30; and Column 21, lines 8-12.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Dennehey et al.

(US 5,462,416 A).

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Dennehey et al. discloses a pump cassette for use in blood processing systems having a circuit for receiving fluids from a patient and returning fluids to the patient, a circuit for delivering a solution to the patient, and a suction circuit for withdrawing fluids from the patient or surgical site, the system having a control unit (246) for controlling the flow of fluids in one or more of the circuits, the disposable cartridge comprising: a housing (22) defining a plurality of internal passageways (F1 through F19), a first internal passageway (F9, F10) being configured for connection to the patient receiving/returning circuit, a second internal passageway (F1, F2, F3) configured for connection to the solution delivery circuit and a third internal passageway (F8) being configured for connection to a suction circuit, (Note: the Examiner has interpreted any passageway subjected to negative pressure as being configured for connection to a suction circuit.). See Figures 2, 3 and 6; Column 2, lines 4-43; Column 5, line 57 through Column 7, line 30; Column 8, lines 3-61; Column 10, lines 27-30, and Column 19, line 3 through Column 20, line 68.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Bilstad et al. (US 4,479,762 A).

Bilstad et al. discloses a fluid processing module having a circuit for receiving fluids from a patient and returning fluids to the patient, a circuit for delivering a solution to the patient, and a suction circuit for withdrawing fluids from the patient or surgical site, the system having a control unit (21, 26) for controlling the flow of fluids in one or more of the circuits, the disposable cartridge comprising: a housing (20) defining a plurality of internal passageways (140, 142, 143, 144, and 146), a first internal passageway (140) being configured for connection

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to the patient receiving/returning circuit, a second internal passageway (142) configured for connection to the solution delivery circuit and a third internal passageway (143, 144) being configured for connection to a suction circuit, (Note: the Examiner has interpreted any passageway subjected to negative pressure as being configured for connection to a suction circuit.). See Figures 5 and 13; Column 4, line 32 through Column 5, line 39; and Column 9, line 14 through Column 10, line 68.

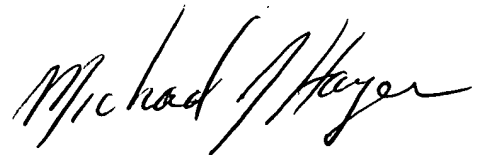
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer J Maynard whose telephone number is 703.305.1356. The examiner can normally be reached on Mondays-Fridays 9:30 AM-5:30 PM; 1st Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703.308.3552. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.0858.

J Maynard  
September 2, 2003



**MICHAEL J. HAYES**  
**PRIMARY EXAMINER**